Although a UNE may be removed under Section 251, ILECs retain the obligation to interconnect with and provide network access to other telecommunications carriers under Sections 201 and 202 of the Act,[390] and where a carrier seeks or has received interLATA relief, under Section 271.[391]

In this way, the UNEs upon which CLECs have relied since the *UNE Remand Order* will not simply disappear, but will be replaced by another offering priced on a reasonable and nondiscriminatory basis. Absent such a scheme, CLEC orders could be lost or delayed pending the filing of a tariff that may or may not actually contain reasonable and nondiscriminatory rates or otherwise comply with the Commission's decision and the rules of both this Commission and the relevant state commissions. By implementing this "soft landing" approach, the Commission can avoid forcing CLECs to scramble in order to obtain alternate network element sources and/or redevelop business plans on the fly. In turn, it will better ensure that the deployment of competitive services is not halted or slowed.

Finally, the Commission should reaffirm that the removal of a UNE under Section 251 in no way removes any of the express obligations of Section 271.[392] These obligations, which expressly require the provision of unbundled loops, transport, switching, 911, operator

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commissions to impose additional unbundling obligations as long as they comply with subsections 251(d)(3)(B) and (C).").

390 47 U.S.C. §§ 201, 202.

391 *Id.* §§ 271(c)(2)(B)(iv)-(viii).

392 *UNE Remand Order*, 15 FCC Rcd. at 3905, ¶ 472 ("Although section 271 does not specify that the checklist network elements must be provided in accordance with section 251(c)(3), the Commission nonetheless has independent authority to ensure that items (iv)-(vi) of the checklist are provided on a reasonable, nondiscriminatory basis."). *See also id.* at 3904, ¶ 470 (stating that if an element no longer meets the unbundling standards of Section 251, then "the applicable prices, terms and conditions for that element are determined in accordance with Sections 201(b) and 202(a).").

service/directory assistance, and white pages directories,[393] are separate, independent and binding on all Bell entities with Section 271 applications or authority.

D. A "Fresh Look" Policy Should Apply to EEL Conversions and to Other Conversions Where Access to UNEs Was Denied

The Commission also asks whether competitors should be able to "obtain a 'fresh look' for long term commitments."[394] Noting that it previously disallowed competitors fresh look relief from special access termination penalties in the context of EEL conversions, the Commission inquires as to the "bases" upon which a fresh look approach should now apply.[395]

Competitors must be allowed – without penalty – to avail themselves of the Commission's unbundling rules. Whether access to UNEs becomes possible as a result of a rule change or clarification, or an ILEC amendment of a past practice or policy to deny access to a UNE or combinations thereof, CLECs must be able to convert special access to UNEs or UNE combinations without penalty. Section 251 does not permit the imposition of impediments to or restrictions on access to UNEs.[396] Moreover, as Focal stated in the comments referenced by the Commission in the NPRM,[397] "CLECs are requesting a 'fresh look' not to switch to another provider, but to convert from one type of ILEC service to another."[398] ILECs must not be permitted to circumvent federal unbundling law by denying CLECs unbundled access to elements on the grounds that they previously had been provisioned under a different label.

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393 47 U.S.C. §§ 271(c)(2)(B) (iii) – (vi).

394 *NPRM*, ¶ 80.

395 *Id.*

396 *UNE Remand Order*, 15 FCC Rcd. at 3911, ¶ 484 ("In particular, the Commission found that its conclusion not to impose restrictions of the use of unbundled network elements was 'compelled by the plain language of the 1996 Act'[.]") (citing *Local Competition First Report and Order*, 11 FCC Rcd. at 15679, ¶ 356); *see also* 47 C.F.R. § 51.309(a).

397 *See NPRM*, n. 195.

As Focal made clear, the conversion of an access arrangement to a UNE costs the ILEC very little – it does not "require the ILEC to disconnect the circuit, but should merely modify the billing information."[399] Conversion charges or termination penalties have no basis in cost, contrary to the core tenets of unbundled pricing, and little basis in network reality. They are thus nothing more than a financial windfall for the ILECs. Past preservation of termination penalty windfalls has compromised CLECs' ability to access UNEs and, in turn, has curbed their ability to reach new customers with their services. There is no sound legal or policy reason for allowing ILEC termination penalties to continue to impeded access to UNEs. Thus, the Commission should explicitly hold that where CLECs exercise their right to convert to a UNE arrangement, the ILECs may not impose any charges not directly associated with the cost-base price of effecting that conversion.

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398 Comments of Focal Communications Corporation, CC Docket No. 96-98, at 13 (Apr. 5, 2001) ("Focal Comments").

399 *Id.*

VI. CONCLUSION

For all of the foregoing reasons, the Commission should expeditiously act to retain every UNE on its current national list, remove restrictions on access to UNE combinations, define the EEL as a distinct UNE, and adopt rules that ensure reasonable and nondiscriminatory access to dark fiber, subloops and all other UNEs.

Respectfully submitted,

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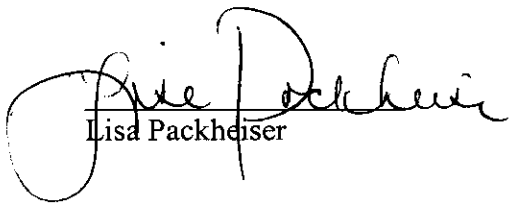
April 5, 2002

CERTIFICATE OF SERVICE

I, Lisa Packheiser, hereby certify that copies of the foregoing Initial Comments were served via courier to:



Lisa Packheiser

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METROMEDIA FIBER NETWORK SERVICES, INC.

METROMEDIA FIBER NETWORK SERVICES, INC. ("MFN") is a leader in deployment of optical infrastructure used to provide advanced telecommunications services within key metropolitan areas in the United States and abroad. MFN is authorized to provide intrastate telecommunications services in the District of Columbia and 43 states. MFN offers a broad array of telecommunications services, including competitive access services, inter- and intra-city transport services, and transmission capacity to carrier and enterprise customers.

Characteristic	Description
Corporate Structure:	MFN is publicly traded on the NASDAQ exchange (MFNX).
Market Segment:	MFN provides advanced telecommunications services to CLEC, ILEC and wireless carriers as well as enterprise customers in the United States and abroad.
Geographic Focus:	MFN is authorized to provide intrastate telecommunications services in the District of Columbia and 43 states. MFN is currently developing point-to point intra-city networks in a number of major metropolitan markets across the United States.
Product Focus:	MFN is the leading provider of digital communications infrastructure solutions. We provide the most extensive metropolitan area fiber network, a high performing global optical IP network, state-of-the-art data centers, and award-winning managed services to deliver fully integrated, outsourced communications solutions for carriers and Global 2000 companies.
Provisioning Method/Facilities:	MFN provides virtually unlimited bandwidth over its own fiber optic facilities to key ILEC central offices in major cities across the United States. Our major carrier customers use MFN transport as an alternative to ILEC transport services and UNEs. Where we have not deployed our own optical fiber directly to end user locations, we attempt to interconnect directly with the ILEC at the ILEC central office, via a fiber distribution frame, so that MFN may exercise its right to purchase unbundled dark fiber facilities from the ILEC.
Regulatory Resources:	Our limited regulatory resources are focused on obtaining and maintaining interconnection agreements, as well as participating in federal regulatory dockets and private dispute resolution proceedings. We have devoted significant resources to removing building access and municipal rights-of-way impediments.
RBOC Relationship:	MFN is a party to interconnection agreements with SBC, Verizon, Qwest and BellSouth. Because our company's provisioning methods rely heavily upon maintaining favorable interconnection arrangements with the ILECs, our interconnection agreements reflect innovative approaches to interconnection, collocation, and UNEs which support our development competitive transport services.

SNiP LiNK, LLC

SNiP LiNK, LLC ("SNiP LiNK") is a facilities-based provider of bundled telecommunications services to small and medium-sized business customers and institutional end users, in suburban, southern New Jersey, southeastern Pennsylvania and Delaware. SNiP LiNK provides bundled local voice, long distance, broadband data and Internet access services using its own switching equipment, as well as leased ILEC transmission facilities, including UNEs and special access. SNiP LiNK has achieved extraordinary success in providing broadband Internet access services to school districts throughout the greater Philadelphia metropolitan area.

Characteristic	Description
Funding:	SNiP LiNK is a privately funded company with adequate capital to meet its short term needs.
Market Segment:	SNiP LiNK provides local voice, long distance, broadband data and Internet access services to small and medium-sized business customers, as well as to institutional end users. Our company has achieved extraordinary success in providing broadband Internet access services to school districts throughout the greater Philadelphia metropolitan area.
Geographic Focus:	SNiP LiNK serves Delaware, southeastern Pennsylvania, and suburban, southern New Jersey.
Product Focus:	SNiP LiNK provides bundled telecommunications services, including local voice, long distance, broadband data and Internet access services.
Growth:	For the year 2001, SNiP LiNK's total revenues increased by 50%.
Provisioning Method/Facilities	SNiP LiNK provides bundled telecommunications services using its own switching equipment, as well as leased ILEC transmission facilities, including UNEs and special access. The majority of our company's dedicated service customers receive turnkey package services, provided by SNiP LiNK's own CPE on a legacy TDM delivery. In addition, SNiP LiNK recently deployed its first fiber ring.
Regulatory Resources:	SNiP LiNK's limited regulatory resources are focused primarily on maintaining its current interconnection agreements with Verizon. At the present time, SNiP LiNK is working to provision its first EEL orders in New Jersey, in accordance with recent regulatory changes implemented by the New Jersey Board of Public Utilities.
RBOC Relationships:	SNiP LiNK is a party to four interconnection agreements with Verizon. Pursuant to those agreements, SNiP LiNK currently exchanges traffic with Verizon in Delaware, Pennsylvania and New Jersey. SNiP LiNK will begin to exchange traffic with Verizon in Maryland in 2002.

KMC TELECOM, INC.

KMC TELECOM, INC. ("KMC") is a facilities-based integrated communications provider offering voice, data, Internet and enhanced services to business customers and institutional end users predominantly located in 35 mid-sized cities, in 17 states. KMC has deployed digital circuit switching and advanced soft-switch equipment, as well as high-speed, high capacity SONET fiber ring networks in each market. KMC has also deployed a national broadband data platform, which provides advanced local and Internet access services to carrier customers in 140 markets throughout the United States.

Characteristic	Description
Funding:	KMC is privately funded and currently is seeking funding resources to meet its short and long term business plan needs.
Market Segment:	KMC's core business unit provides integrated communications services, including voice, data, Internet and enhanced services, to small and medium-sized business customers, as well as to public and private institutional end users. In addition, our company provides broadband data services, including advanced data and Internet access services, to carrier customers in 140 markets throughout the United States.
Geographic Focus:	KMC's core business plan targets under-served, mid-sized cities, referred to as Tier III markets. Our company serves 35 Tier III markets, in 17 states, including Alabama, Florida, Georgia, Indiana, Kansas, Louisiana, Maryland, Michigan, Minnesota, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia and Wisconsin. In addition, our company's broadband data platform serves carrier customers in 140 markets nationwide.
Product Focus:	KMC provides a broad array of local voice, data, Internet access, long distance and enhanced services to its customers, including Dedicated Internet Access services, long distance services and 800 services.
Growth:	For the year 2001, the total revenue for KMC's core business unit totaled $175 million, and the total revenue for KMC's national broadband data platform totaled $360 million. At the present time, our company serves over 14,000 customers, and operates approximately 2.8 million DS-0 equivalent lines. Our company plans to upgrade its national broadband data platform in the very near future, and will include voice over internet protocol as a part of its local access infrastructure. KMC's limited ability to access additional capital will negatively impact its growth potential. Our company reduced its capital expenditures by 80% in 2001, and projected that capital expenditures will be reduced by an additional 40% in 2002.
Provisioning Method/Facilities	KMC's core business unit employs digital circuit switching and advanced soft-switch equipment, as well as high-speed, high-capacity SONET fiber ring network transmission equipment. Our company has deployed 2,400 local route miles of fiber, and collocated in 140 ILEC end offices. Although we have made significant investment in each of the Tier III markets in which we compete, we rely upon ILEC transmission UNEs to provide connectivity to most customer

locations, and between our own facilities and those of other carriers.

Regulatory Resources: KMC is certificated to provide telecommunications services in all 50 states. As such, our limited regulatory resources are focused primarily on filing federal and state compliance reports, obtaining and maintaining interconnection agreements, and participating, on a limited basis, in state commission complaint and enforcement proceedings. In addition, our company has actively participated in several proceedings before the FCC, and vigorously opposed the Tauzin-Dingell legislation.

RBOC Relationship: KMC has maintained a business relationship with the ILECs, and is currently a party to interconnection agreements with BellSouth, SBC-Southwestern Bell, Verizon and Qwest. Although we have made pronounced efforts to resolve our disputes with the ILECs outside of the regulatory arena, we have nonetheless initiated formal complaint proceedings to collect outstanding reciprocal compensation payments owed by the ILECs, pursuant to our interconnection agreements.

E.SPIRE COMMUNICATIONS, INC.

E.SPIRE COMMUNICATIONS, INC. ("e.spire"), formerly American Communications Services, Inc., is a facilities-based provider of local voice, long distance, broadband data and Internet access services to over 4,000 small and medium-sized business customers, in 38 markets nationwide, as well as a Tier I Internet backbone provider. In addition, e.spire has deployed an extensive frame relay switching network, superior to that of nearly any other competitive carrier. Through an operating subsidiary, e.spire also constructs competitive telecommunications networks for other facilities-based CLECs. e.spire filed for Chapter 11 bankruptcy protection in March 2001 and is currently seeking exit financing.

Characteristic	Description
Funding:	e.spire filed for Chapter 11 bankruptcy protection in March 2001 and is currently seeking exit financing. At the present time, e.spire is operating with debtor-in-possession financing.
Market Segment:	e.spire provides local voice, long distance, broadband data and Internet access services to more than 4,000 small and medium-sized business customers, in 38 markets nationwide. In addition, e.spire operates as an Internet backbone provider in several Tier I markets.
Geographic Focus:	e.spire currently operates telecommunications networks in the following metropolitan markets: Albuquerque, NM; Amarillo, TX*; Atlanta, GA; Austin, TX; Baltimore, MD; Baton Rouge, LA*; Birmingham, AL; Charleston, SC*; Chattanooga, TN*; Colorado Springs, CO; Columbia, SC; Columbus, GA; Corpus Christi, TX*; Dallas, TX; El Paso, TX; Fort Worth, TX; Fort Lauderdale/Miami, FL; Greenville, SC; Irving, TX*; Jackson, MS*; Jacksonville, FL; Kansas City, KS/Kansas City, MO; Las Vegas, NV; Lexington, KY*; Little Rock, AR; Louisville, KY; Mobile, AL; Montgomery, AL; New Orleans, LA; New York, NY; Philadelphia, PA; San Antonio, TX; Shreveport, LA*; Spartanburg, SC*; Tampa, FL; Tucson, AZ; Tulsa, OK; and Washington, DC/Northern Virginia. (* indicates networks which are not equipped with a Class 5 switch)
Product Focus:	e.spire currently provides local voice, long distance, broadband data and Internet access services, as well as Internet backbone facilities.
Growth:	e.spire has grown rapidly since its entry into the market for switched local services. In 2000, e.spire reported revenues of $344 million. e.spire expects to resume normal growth upon its emergence from bankruptcy.
Provisioning Method/Facilities	e.spire provides local voice, long distance, broadband data and Internet access services using its own digital switching equipment, fiber rings and collocations, located in 38 markets nationwide. In addition, our company has deployed an extensive frame relay network, which is superior to that of nearly any other competitive carrier. Through a separate operating subsidiary, e.spire constructs competitive telecommunications networks for other facilities-based CLECs.
Regulatory	Our company's limited regulatory resources are focused on obtaining and

Resources:	maintaining interconnection agreements, as well as participating in federal and state regulatory enforcement proceedings, legislative proceedings, and private dispute resolution proceedings.
RBOC Relationship:	e.spire is currently a party to interconnection agreements with Verizon, BellSouth, SBC-Southwestern Bell and Qwest.

NUVOX INC.

NUVOX INC. ("NuVox") is a rapidly growing, facilities based integrated communications provider. NuVox emerged from the union of two regional CLECs, Gabriel and TriVergent. Using its own digital and packet switching equipment, collocated transmission equipment in more than 205 collocations, as well as limited fiber over-builds, NuVox serves 30 predominantly tier-two and tier-three markets in 13 states across the midwest and southeast.

Characteristic	Description
Funding:	NuVox, a privately held company, has raised $550 million of equity capital for its operations, and entered 2002 with $47 million of cash, $163.9 million of senior debt, and $63.8 million of undrawn financing under its senior debt facility, providing total available capital of $110.8 million and a net debt-to-invested equity ratio of 21.25%.
Market Segment:	NuVox provides integrated local, long distance, Internet and broadband data communications services to small and medium-sized business customers in 30 predominantly tier-two and tier-three markets. At the present time, NuVox serves approximately 13,000 on-net business customers, and approximately 160,000 total access lines.
Geographic Focus:	NuVox serves 30 markets, in 13 states across the midwest and the southeast.
Product Focus:	NuVox packages dedicated high-speed Internet access, web design and hosting, and "traditional" local and long distance telephone services with unified voice, e-mail, and fax messaging, as well as advanced data services. In addition, NuVox provides dial-up Internet services, data center services, and Customer Premise Equipment interconnects.
Growth:	NuVox entered 2002 with annualized revenues of $108 million (a 130% year-to-year increase), total available capital of more than $110 million, total assets of $568 million, and 29 of its 30 markets reporting positive gross margins. Annualized core broadband revenues, including those revenues from bundled local, long distance, Internet and broadband data services, increased 249% from $25.7 million and 55% of total revenues in December 2000 to $89.8 million and 84% of total revenues in December 2001. Moreover, 2001 revenues for NuVox totaled $83 million, a 487% increase over its 2000 revenues of $14.1 million. In 2001, revenues attributable to core broadband bundle products grew 472%, to $61.2 million during 2001 from $10.7 million during 2000. Gross margins for the year 2001 were 22%, versus 16% for the year 2000. During 2001, on-net access lines in service increased 294%, from 34,629 lines on December 31, 2000 to 136,456 lines at the end of 2001.
Provisioning Method/Facilities:	NuVox provides its "broadband bundle" of services using its own digital and packet switching equipment, and collocated transmission equipment in 205 collocations. NuVox provides broadband data services to most of its customers over an integrated T1.

Regulatory Resources:	Our limited regulatory resources are focused on interconnection agreement procurement and dispute resolution, state proceedings, customer care, federal regulatory and state and federal legislative activities.
RBOC Relationships:	We have interconnection agreements with SBC-Southwestern Bell, SBC-Ameritech, Cincinnati Bell, Verizon and BellSouth.

TDS METROCOM, INC.

TDS METROCOM, INC. ("TDS Metrocom") is a successful, facilities-based provider of local voice, long distance and broadband data services to residential and business customers located in small and medium-sized markets throughout Illinois, Michigan and Wisconsin.

Characteristic	Description
Funding:	TDS Metrocom is not run by short-term venture capital money. Our company receives its funding directly from its corporate parent, TDS Telecom, Inc., which also owns 106 ILECs serving predominantly rural areas in 28 states.
Market Segment:	Like many other carriers, TDS Metrocom provides local voice, long distance and broadband data services to small and medium-sized businesses, as well as to residential customers. Of our 160,000 lines, over 75,000 are residential. (In comparison, Ameritech has over 14 million lines in Illinois, Michigan and Wisconsin.) In addition, we operate over 8,000 active DSL lines, 5,500 of which are residential.
Geographic Focus:	TDS Metrocom serves small and medium-sized cities that many larger CLECs have ignored. For example, our company serves the Wisconsin communities of Appleton, Beloit, Depere, Fond Du Lac, Green Bay, Janesville, Middleton, Neenah, Oshkosh, Pewaukee and Stoughton, as well as a number of communities under 10,000 in population. The actual density of the customers served in our market areas is more similar to that of independent ILECs than to that of the RBOCs. TDS Metrocom operates 71 active lines per square mile in S. Central Wisconsin, 34 active lines per square mile in NE Wisconsin, and 9 active lines per square mile in SE Wisconsin.
Product Focus:	TDS Metrocom offers broad array of telecommunications services, which includes local voice, long distance, and broadband data services such as DSL.
Growth:	Although we are growing lines by nearly 100% each year, our expansion is well managed and limited to what our operations support systems can realistically digest. Our company plans to expand its operations into Indiana and Ohio, however, only to the extent adequate returns are projected.
Provisioning Method/Facilities:	TDS Metrocom uses a disciplined, strict business case focus to determine whether to deploy network infrastructure. Our company deploys its own switches and uses unbundled loops and T-1s. In addition, we deploy fiber over-builds on a limited, business case-justified basis.
Regulatory Resources:	To date, our company's limited regulatory resources largely have been focused on important operational issues at the state level, including interconnection negotiations, unbundled element pricing dockets, proceedings to ensure adequate access to ILEC OSS, and complaint and enforcement activities.
RBOC Relationships:	TDS Metrocom has interconnection agreements with SBC-Ameritech, and exchanges traffic with SBC-Ameritech in 3 states.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers	)	CC Docket No. 01-338
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Deployment of Wireline Services Offering Advanced Telecommunications Capability	)	CC Docket No. 98-147
	)	

AFFIDAVIT OF EDWARD J. CADIEUX
NUVOX, Inc.

I, Edward J. Cadieux, pursuant to 28 U.S.C. Section 1746, do hereby declare, under penalty of Perjury, that the following is true and correct:

1. I am employed as Vice President of Regulatory and Public Affairs by NuVox, Inc. ("NuVox"). I have more than 20 years of regulatory, legal and public policy experience in the telecommunications industry.

2. My business address is 16090 Swingley Ridge Road, Suite 500, Chesterfield, Missouri 63017.

3. NuVox is a rapidly growing, facilities-based integrated communications and applications services provider, offering local voice and data services, domestic and international long distance services, dedicated high speed internet access, digital subscriber line access, unified voice, e-mail and fax messaging and other advanced services, including but not limited to local area and wide area network management, virtual private networks, website design, web page hosting, audio conferencing and a comprehensive set of web-based business applications. NuVox's marketing focus is to offer small and medium-

sized business customers a competitive alternative for all of their communications-related needs. NuVox provides service in 30 markets in 13 states throughout the Southeast and Midwest. A list of the markets served by NuVox is attached hereto as Schedule A.

4. The purpose of my Affidavit is to provide information relevant to the Commission's review of the unbundling obligations of Incumbent Local Exchange Carriers ("ILECs").

5. NuVox has constructed its networks using what is generally referred to as a "smart build", capital efficient approach. We have installed our own voice and data switching infrastructure, but lease the transmission elements of our networks from the serving incumbent local exchange carrier ("ILEC") or, where available, from other providers ("third party providers"). NuVox does not self-provision loop or transport facilities. Even under the smart build approach, NuVox is very much a facilities-based carrier, with 30 ATM data switches and 14 Class-5 digital voice switches installed, 205 collocations deployed and in service, and multi-service customer premises equipment supplied to many of our customers, supporting integrated voice and data service over leased DS1 loop facilities.

6. This network configuration allows NuVox to offer integrated voice and data services via broadband access to small and medium-sized business customers throughout the entire geographic extent of the city markets we have entered – i.e., we are not tied to the limits of a fiber-ring serving a small, concentrated business district, but can extend choice to business customers throughout a metropolitan area. However, this approach is premised on the availability of reasonably-priced loop and transport facilities from the serving ILEC or from third-party providers in each of our 30 markets.

7. As it has deployed its networks, NuVox has aggressively sought out third-party vendors in an effort to ensure that it obtains the best possible price for the leased facilities it requires to connect its customers to its switching platforms. Regarding loop facilities, NuVox's preferred approach is to utilize DS1 level circuits to provide integrated voice and data services. Most of our customers and lines are served in this manner. (For very small customers, we use leased 2-wire analog loops for voice service and DSL loops for internet access).

8. Regarding HiCap (*i.e.*, DS1 or higher level) loops, NuVox does not obtain these facilities from third-party providers in any of our markets. Our experience has been that third-party providers do not offer a viable source of HiCap loop facilities. To the extent third-party providers have deployed any HiCap loop facilities in our markets, these facilities generally are in the form of fiber-rings with limited geographic coverage (*i.e.*, connected to a limited number of multi-tenant buildings), which is not compatible with NuVox's approach of offering service on a ubiquitous basis throughout a metropolitan area. Moreover, even within their limited geographic coverage, the availability of facilities from third-party providers is speculative at best – *i.e.*, generally NuVox is not aware of third-party providers actively offering HiCap loop facilities on an unbundled, wholesale basis.

9. With respect to dedicated transport (i.e., dedicated DS1 and DS3 facilities connecting from the customer's ILEC serving end office to NuVox's hub site or to another ILEC wire center), again consistent with its smart-build approach NuVox does not self-provision these facilities. Instead, NuVox leases either DS1 or DS3 circuits (depending on capacity requirements over specific routes) from the serving ILEC or from third-party

providers. With respect to DS1 dedicated transport, virtually all of the facilities NuVox obtains are from the serving ILEC. Generally, potential third-party providers of dedicated transport are facilities-based CLECs that have deployed collocations and their own dedicated transport facilities, and have made a business decision to offer portions of their transport capacity on an unbundled, wholesale basis. With respect to DS1 transport, NuVox's experience across its markets has been that where these third-party providers exist they either do not offer dedicated transport at the DS1 level (only at the DS3 level or higher) or that operational interfaces at the DS1 level are too problematic for third-party providers to be a viable facility source.

10. Even if third-party vendors would offer DS1 transport on an unbundled wholesale basis, those alternative vendors would only provide a partial alternative transport facility source because their own transport facilities are built to only a subset of ILEC serving wire centers, to other telecommunications carrier points of presence and to select, high density office buildings and campuses. They do not provide anything approaching the geographic ubiquitous coverage that NuVox requires to serve small and medium-sized business throughout a metropolitan area.

11. With respect to DS3 dedicated transport, the availability of third-party-provided DS3 facilities varies market-to-market. In some NuVox markets there is either no third-party provider of DS3 transport or only a single third-party provider and, as discussed above, within any particular market third-party providers collectively do not provide anything approaching the ubiquitous geographic coverage of dedicated transport that NuVox requires. In those markets where NuVox obtains capacity from ILEC OC rings to extend DS3s, third-party providers generally do not have the geographic coverage to offer a

competitively-priced alternative to the serving ILEC. Even in these circumstances, the serving ILEC's OC ring does not offer a source of DS3 connectivity to all of NuVox's serving area, since we are serving customers (via DS1 loop/dedicated transport combinations) on a ubiquitous basis, including substantial areas not covered by our collocations.

12. In some instances, ILEC special access is the only feasible alternative available to NuVox for DS3 transport – *i.e.*, where we obtain DS3 facilities carrying both UNE trunks and tariffed services, some ILECs (SWBT) will not permit "commingling" and will offer the DS3 carrying tariffed services only under the access tariff.

13. DS1s obtained from ILECs as special access circuits are not competitively priced. These facilities are not priced based on TELRIC and therefore do not reflect the costs of an efficient provider of transport facilities. NuVox's experience has been that ILEC DS1 transport facilities generally cost as much as 2 to 4 times the level of the same DS1 transport facility when provided as a UNE (e.g., typically Ameritech DS1 UNE transport is approximately $200 per month, whereas the same DS1 transport facility obtained under its special access tariff may cost anywhere from approximately $400 to $800 per month.) DS1 transport obtained through ILEC special access tariffs inflate a CLEC's cost of doing business to a point which is unprofitable, making it essential that ILECs come immediately into compliance with the law and perform special access to EEL conversions in a timely and efficient manner.

14. In many other instances, NuVox cannot obtain dedicated transport from the serving ILEC directly as UNEs. This is particularly true regarding DS1 dedicated transport, but also includes some DS3 transport facilities (i.e., some DS3s connecting to ILEC central

offices where NuVox does not have collocation) For these dedicated transport facilities NuVox must first lease these facilities as special access and then convert to UNEs under the Commission's special access to EEL conversion rules. DS1 and DS3 dedicated transport obtained as special access are priced excessively and, while a short-run necessity for NuVox where direct EELs are not available, do not offer a sustainable, economically-viable basis for providing integrated voice and data services. The availability of ILEC-combined DS1 loop/DS1 or DS3 dedicated transport facilities directly as UNEs – as opposed to only through a conversion of special access facilities – varies among ILECs and, in some instances, within an ILEC's region between states or even between portions of markets. In NuVox's seven markets in the SWBT region, in most instances we are able to obtain dedicated transport directly as UNEs as part of a DS1 loop/dedicated transport combination – i.e., the Enhanced Extended Link ("EEL"). SWBT has made these facility combinations available as UNEs as result of either state arbitration decisions or as a product of its "2A" interconnection agreements filed in conjunction with their Section 271 applications.

15. However, in a number of NuVox's other markets the serving ILECs (Ameritech, BellSouth, Cincinnati Bell and Verizon) do not voluntarily offer DS1 loop/dedicated transport as UNEs directly, but instead require these facilities first be deployed and billed as special access circuits and then converted to UNE pricing as EELs. As a result, many of NuVox's DS1 dedicated transport facilities (and some DS3 transport) in markets served by these ILECs are initially ordered and billed pursuant to the ILECs special access tariffs. In reviewing the ILECs' unbundling obligations, NuVox urges the Commission to take into account the extent to which some of these very same ILECs

have failed to implement the Commission's directives regarding special access to EEL conversions in a timely and efficient manner. NuVox has encountered difficulties with the ILECs in getting these conversions accomplished. NuVox's experience has been that the ILECs it has dealt with on special access to EEL conversions were either initially unprepared to process the conversions and/or created artificial barriers to conversion of these facilities to UNEs. For example, Ameritech did not have the internal order processing systems and procedures in place to handle special access to EEL conversions when NuVox began the process in first quarter, 2001. Shortly thereafter, in three separate incidents, Ameritech inadvertently disconnected service to a total of 50 NuVox Ohio customers when Ameritech attempted to process the conversion of orders. In September, 2001, Ameritech caused a fourth outage incident. NuVox found that BellSouth, Cincinnati Bell and Verizon were likewise initially unprepared last year to promptly process special access to EEL conversions. BellSouth created other barriers to special access to EEL conversions – *e.g.*, it raised the specter of threatening to seek recovery of "leaky PBX surcharges" from CLECs as a consequence of their submission of conversion requests. Ultimately, BellSouth backed away from that position. Nevertheless, this is an indication of the type of roadblocks CLECs have faced in attempting to convert these facilities to UNE pricing.

16. Retention of the mandatory unbundling requirements for HiCap loops and transport will promote the continued growth of both voice and broadband competition. NuVox and an increasing number of CLECs are combining ILEC HiCap Loop and dedicated transport facilities to provide bundled voice and broadband data services. See March 12, 2002 Yankee Group Research Notes, attached hereto as Schedule B (describing the bundled

voice and data over T-1 facilities by Allegiance Telecom, XO Communications, ITC DeltaCom and NuVox). Combining voice and data over HiCap facilities creates an efficient use of network facilities and facilitates competitive pricing and convenience for the customer. Combining voice and data over leased ILEC HiCap facilities provides a method for bringing broadband service to market segments and to geographic locations that otherwise have limited or no broadband supplier alternatives. Bundled voice and data via leased ILEC HiCap facilities allows NuVox to drive the offering of voice and broadband data services down market – to small and medium-sized business customers, a market segment historically underserved by the ILECs. This serving strategy also permits NuVox to offer service broadly throughout the markets it serves – i.e., by leasing HiCap facilities from the ILEC we are not limited to offering service along a fiber ring route or constrained by the boundaries of a cable network.

17. In order to promote the expansion of broadband services, the Commission must require that ILEC HiCap loop and transport facilities remain available as UNEs. HiCap facilities under ILEC special access tariffs are priced excessively and therefore provide no substitute for UNEs. Because UNEs are priced based on TELRIC, those prices reflect the costs of an efficient supplier. In contrast, ILEC special access tariff rates for the same HiCap facilities can be several times the comparable UNE price.

VERIFICATION

State of Missouri)
) SS
County of St. Louis)

Edward J. Cadieux being duly sworn states that he is the Vice President, Regulatory and Public Affairs of NuVox, Inc., and that the facts set forth above are true and correct to the best of his knowledge and belief.

Edward J. Cadieux

Subscribed and sworn to before me, this 4th day of April, 2001.

My commission expires:

ELLEN RUBIN
Notary Public – State of Missouri
County of St. Louis
My Commission Expires Mar. 20, 2005